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10 **UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

11 FABRIC SELECTION, INC., a  
California corporation,

12 Plaintiff,

13 vs.

14 TOPSON DOWNS OF CALIFORNIA,  
INC., a California corporation;  
15 WAL-MART STORES, INC., a  
Delaware corporation; DANIEL  
16 ABRAMOVITCH, an individual; and  
DOES 1 through 50, Inclusive,

17 Defendants.  
18  
19

Case No. 2:18-CV-04626

**COMPLAINT FOR:**  
**(1) COPYRIGHT INFRINGEMENT**  
**(2) CONTRIBUTORY COPYRIGHT**  
**INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

20 Fabric Selection, Inc. (“**Plaintiff**” or “**Fabric Selection**”) hereby alleges as  
21 follows:

22 **PARTIES**

23 1. Plaintiff Fabric Selection is a California corporation organized and  
24 existing under the laws of the State of California with its principal place of business  
25 located in Los Angeles County.

26 2. Plaintiff is informed and believes, and based thereon alleges, that  
27 defendant Topson Downs of California, Inc. (“**Topson**”) is a corporation organized  
28 and existing under the laws of the State of California, doing business nationwide,

1 including in this judicial district. Plaintiff is further informed and believes that  
2 Topson Downs is a manufacturer, importer and/or wholesaler of apparel in the  
3 business of manufacturing and selling garments and apparel to retailers nationwide.

4 3. Plaintiff is informed and believes, and based thereon alleges, that  
5 defendant Daniel Abramovitch (“**Abramovitch**”) is an officer and/or owner of  
6 Topson. Abramovitch has the right and ability to and does supervise the relevant  
7 activities of Defendant Topson’s operations and has a direct financial interest in the  
8 Topson activities that give rise to this litigation.

9 4. Plaintiff is informed and believes, and based thereon alleges, that  
10 defendant Wal-Mart Stores, Inc. (“**Wal-Mart**”) is a corporation organized and  
11 existing under the laws of the State of Delaware, doing business nationwide,  
12 including within this judicial district. Plaintiff is further informed and believes that  
13 Wal-Mart operates retail stores and a website in the business of selling garments,  
14 apparel, and other goods to consumers nationwide.

15 5. Plaintiff is informed and believes, and based thereon alleges, that  
16 defendants DOES 1 through 50, inclusive, have infringed Plaintiff’s Copyrights,  
17 have contributed to infringement of Plaintiff’s Copyrights, and/or engaged in one or  
18 more of the torts, breaches, and wrongful practices alleged herein. The true names  
19 of DOES 1 through 50, inclusive, are presently unknown to Plaintiff, which  
20 therefore sues said defendants by such fictitious names and will seek leave to amend  
21 this complaint to show their true names and capacities when same have been  
22 ascertained.

23 6. Hereinafter defendants Topson, Abramovitch, Wal-Mart, and DOES 1  
24 through 50, inclusive, shall be referred to collectively as “**Defendants.**”

### 25 **JURISDICTION AND VENUE**

26 7. This action arises under the Copyright Act of 1976, Title 17 U.S.C.  
27 §101 *et seq.*

28 8. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and

1 §1338(a).

2 9. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

3 **THE COPYRIGHTED DESIGNS**

4 10. Fabric Selection is the author of, and copyright holder in, the original  
5 print design which it has internally designated as DU525 (“**Design A**”). Attached  
6 hereto as Exhibit “1” is a true and correct copy of Design A.

7 11. On or about July 13, 2013, Fabric Selection obtained a Certificate of  
8 Registration for Design A from the United States Copyright Office, bearing  
9 registration number VAu 1-195-968. Attached hereto as Exhibit “2” is a true and  
10 correct copy of the Certificate of Registration for Design A (the “**Copyrighted**  
11 **Design A**”).

12 12. Fabric Selection is the author of, and copyright holder in, the original  
13 print design which it has internally designated as DU322 (“**Design B**”). Attached  
14 hereto as Exhibit “3” is a true and correct copy of Design B.

15 13. On or about December 29, 2012, Fabric Selection obtained a Certificate  
16 of Registration for Design B from the United States Copyright Office, bearing  
17 registration number VAu 1-124-261. Attached hereto as Exhibit “4” is a true and  
18 correct copy of the Certificate of Registration for Design B (“**Copyrighted Design**  
19 **B**”).

20 14. Fabric Selection is the author of, and copyright holder in, the original  
21 print design which it has internally designated as DU384 (“**Design C**”). Attached  
22 hereto as Exhibit “5” is a true and correct copy of Design C.

23 15. On or about February 16, 2013, Fabric Selection obtained a Certificate  
24 of Registration for Design C from the United States Copyright Office, bearing  
25 registration number VAu 1-124-146. Attached hereto as Exhibit “6” is a true and  
26 correct copy of the Certificate of Registration for Design C (“**Copyrighted Design**  
27 **C**”).

28 16. Fabric Selection is the author of, and copyright holder in, the original

1 print design which it has internally designated as DU461 (“**Design D**”). Attached  
2 hereto as Exhibit “7” is a true and correct copy of Design D.

3 17. On or about May 4, 2013, Fabric Selection obtained a Certificate of  
4 Registration for Design D from the United States Copyright Office, bearing  
5 registration number VAu 1-134-449. Attached hereto as Exhibit “8” is a true and  
6 correct copy of the Certificate of Registration for Design D (“**Copyrighted Design**  
7 **D**”).

8 18. Fabric Selection is the author of, and copyright holder in, the original  
9 print design which it has internally designated as SE30934 (“**Design E**”). Attached  
10 hereto as Exhibit “9” is a true and correct copy of Design E.

11 19. On or about September 21, 2013, Fabric Selection obtained a  
12 Certificate of Registration for Design E from the United States Copyright Office,  
13 bearing registration number VAu 1-144-637. Attached hereto as Exhibit “10” is a  
14 true and correct copy of the Certificate of Registration for Design D (“**Copyrighted**  
15 **Design E**”).

16 20. Fabric Selection is the author of, and copyright holder in, the original  
17 print design which it has internally designated as SE31063 (“**Design F**”). Attached  
18 hereto as Exhibit “11” is a true and correct copy of Design F.

19 21. On or about November 2, 2013, Fabric Selection obtained a Certificate  
20 of Registration for Design F from the United States Copyright Office, bearing  
21 registration number VAu 1-151-678. Attached hereto as Exhibit “12” is a true and  
22 correct copy of the Certificate of Registration for Design F (“**Copyrighted Design**  
23 **F**”).

24 22. Fabric Selection is the author of, and copyright holder in, the original  
25 print design which it has internally designated as SE31266 (“**Design G**”). Attached  
26 hereto as Exhibit “13” is a true and correct copy of Design G.

27 23. On or about December 28, 2013, Fabric Selection obtained a Certificate  
28 of Registration for Design G from the United States Copyright Office, bearing

1 registration number VAu 1-155-087. Attached hereto as Exhibit “14” is a true and  
2 correct copy of the Certificate of Registration for Design G (“**Copyrighted Design**  
3 **G**”).

4 24. Fabric Selection is the author of, and copyright holder in, the original  
5 print design which it has internally designated as SE20448 (“**Design H**”). Attached  
6 hereto as Exhibit “15” is a true and correct copy of Design H.

7 25. On or about April 24, 2012, Fabric Selection obtained a Certificate of  
8 Registration for Design H from the United States Copyright Office, bearing  
9 registration number VAu 1-124-274. Attached hereto as Exhibit “16” is a true and  
10 correct copy of the Certificate of Registration for Design H (“**Copyrighted Design**  
11 **H**”).

12 26. Fabric Selection is the author of, and copyright holder in, the original  
13 print design which it has internally designated as SE20566 (“**Design I**”). Attached  
14 hereto as Exhibit “17” is a true and correct copy of Design I.

15 27. On or about June 2, 2012, Fabric Selection obtained a Certificate of  
16 Registration for Design I from the United States Copyright Office, bearing  
17 registration number VAu 1-103-236. Attached hereto as Exhibit “18” is a true and  
18 correct copy of the Certificate of Registration for Design I (“**Copyrighted Design**  
19 **I**”).

20 28. Fabric Selection is the author of, and copyright holder in, the original  
21 print design which it has internally designated as SE31051 (“**Design J**”). Attached  
22 hereto as Exhibit “19” is a true and correct copy of Design J.

23 29. On or about October 12, 2013, Fabric Selection obtained a Certificate  
24 of Registration for Design J from the United States Copyright Office, bearing  
25 registration number VAu 1-144-874. Attached hereto as Exhibit “20” is a true and  
26 correct copy of the Certificate of Registration for Design J (“**Copyrighted Design**  
27 **J**”).

28 30. Fabric Selection is the author of, and copyright holder in, the original

1 print design which it has internally designated as SE31094 (“**Design K**”). Attached  
2 hereto as Exhibit “21” is a true and correct copy of Design K.

3 31. On or about November 2, 2013, Fabric Selection obtained a Certificate  
4 of Registration for Design K from the United States Copyright Office, bearing  
5 registration number VAu 1-151-683. Attached hereto as Exhibit “22” is a true and  
6 correct copy of the Certificate of Registration for Design K (“**Copyrighted Design**  
7 **K**”).

8 32. Fabric Selection is the author of, and copyright holder in, the original  
9 print design which it has internally designated as SE31140 (“**Design L**”). Attached  
10 hereto as Exhibit “23” is a true and correct copy of Design L.

11 33. On or about November 16, 2013, Fabric Selection obtained a  
12 Certificate of Registration for Design L from the United States Copyright Office,  
13 bearing registration number VAu 1-151-710. Attached hereto as Exhibit “24” is a  
14 true and correct copy of the Certificate of Registration for Design L (“**Copyrighted**  
15 **Design L**”).

16 34. Fabric Selection is the author of, and copyright holder in, the original  
17 print design which it has internally designated as SE31193 (“**Design M**”). Attached  
18 hereto as Exhibit “25” is a true and correct copy of Design M.

19 35. On or about December 14, 2013, Fabric Selection obtained a Certificate  
20 of Registration for Design M from the United States Copyright Office, bearing  
21 registration number VAu 1-151-716. Attached hereto as Exhibit “26” is a true and  
22 correct copy of the Certificate of Registration for Design M (“**Copyrighted Design**  
23 **M**”).

24 36. Fabric Selection is the author of, and copyright holder in, the original  
25 print design which it has internally designated as SE312103 (“**Design N**”).  
26 Attached hereto as Exhibit “27” is a true and correct copy of Design N.

27 37. On or about December 28, 2013, Fabric Selection obtained a Certificate  
28 of Registration for Design N from the United States Copyright Office, bearing

1 registration number VAu 1-155-088. Attached hereto as Exhibit “28” is a true and  
2 correct copy of the Certificate of Registration for Design N (“**Copyrighted Design**  
3 **N**”).

4 38. Fabric Selection is the author of, and copyright holder in, the original  
5 print design which it has internally designated as SE40199 (“**Design O**”). Attached  
6 hereto as Exhibit “29” is a true and correct copy of Design O.

7 39. On or about February 1, 2014, Fabric Selection obtained a Certificate  
8 of Registration for Design O from the United States Copyright Office, bearing  
9 registration number VAu 1-158-003. Attached hereto as Exhibit “30” is a true and  
10 correct copy of the Certificate of Registration for Design O (“**Copyrighted Design**  
11 **O**”).

12 40. Fabric Selection is the author of, and copyright holder in, the original  
13 print design which it has internally designated as SE405106 (“**Design P**”). Attached  
14 hereto as Exhibit “31” is a true and correct copy of Design P.

15 41. On or about June 7, 2014, Fabric Selection obtained a Certificate of  
16 Registration for Design P from the United States Copyright Office, bearing  
17 registration number VAu 1-169-896. Attached hereto as Exhibit “32” is a true and  
18 correct copy of the Certificate of Registration for Design P (“**Copyrighted Design**  
19 **P**”).

20 42. Fabric Selection is the author of, and copyright holder in, the original  
21 print design which it has internally designated as SE40554 (“**Design Q**”). Attached  
22 hereto as Exhibit “33” is a true and correct copy of Design Q.

23 43. On or about June 7, 2014, Fabric Selection obtained a Certificate of  
24 Registration for Design Q from the United States Copyright Office, bearing  
25 registration number VAu 1-169-996. Attached hereto as Exhibit “34” is a true and  
26 correct copy of the Certificate of Registration for Design Q (“**Copyrighted Design**  
27 **Q**”).

28 44. Fabric Selection is the author of, and copyright holder in, the original



1 print design which it has internally designated as SE407117 (“**Design R**”).  
2 Attached hereto as Exhibit “35” is a true and correct copy of Design R.

3 45. Fabric Selection is the author of, and copyright holder in, the original  
4 print design which it has internally designated as SE40802 (“**Design S**”). Attached  
5 hereto as Exhibit “36” is a true and correct copy of Design S.

6 46. On or about August 9, 2014, Fabric Selection obtained a Certificate of  
7 Registration for Design R and Design S from the United States Copyright Office,  
8 bearing registration number VAu 1-180-606. Attached hereto as Exhibit “37” is a  
9 true and correct copy of the Certificate of Registration for Design R and Design S  
10 (“**Copyrighted Designs R and S**”).

11 47. Fabric Selection is the author of, and copyright holder in, the original  
12 print design which it has internally designated as SE407137 (“**Design T**”). Attached  
13 hereto as Exhibit “38” is a true and correct copy of Design T.

14 48. On or about August 2, 2014, Fabric Selection obtained a Certificate of  
15 Registration for Design T from the United States Copyright Office, bearing  
16 registration number VAu 1-180-626. Attached hereto as Exhibit “39” is a true and  
17 correct copy of the Certificate of Registration for Design T (“**Copyrighted Design**  
18 **T**”).

19 49. Fabric Selection is the author of, and copyright holder in, the original  
20 print design which it has internally designated as SE41080 (“**Design U**”). Attached  
21 hereto as Exhibit “40” is a true and correct copy of Design U.

22 50. On or about November 6, 2014, Fabric Selection obtained a Certificate  
23 of Registration for Design U from the United States Copyright Office, bearing  
24 registration number VAu 1-187-459. Attached hereto as Exhibit “41” is a true and  
25 correct copy of the Certificate of Registration for Design U (“**Copyrighted Design**  
26 **U**”).

27 51. Fabric Selection is the author of, and copyright holder in, the original  
28 print design which it has internally designated as SE412104 (“**Design V**”).



1 Attached hereto as Exhibit “42” is a true and correct copy of Design V.

2 52. On or about December 18, 2014, Fabric Selection obtained a Certificate  
3 of Registration for Design V from the United States Copyright Office, bearing  
4 registration number VAu 1-193-175. Attached hereto as Exhibit “43” is a true and  
5 correct copy of the Certificate of Registration for Design V (“**Copyrighted Design**  
6 **V**”).

7 53. Design A, Design B, Design C, Design D, Design E, Design F, Design  
8 G, Design H, Design I, Design J, Design K, Design L, Design M, Design N, Design  
9 O, Design P, Design Q, Design R, Design S, Design T, Design U, and Design V are  
10 sometimes referred to herein, collectively, as the “**Designs.**”

### 11 **FIRST CLAIM FOR RELIEF**

#### 12 **(Copyright Infringement – Against All Defendants)**

13 54. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1  
14 through 53 hereinabove, and incorporates them by reference as if fully set forth  
15 herein.

16 55. Within the last three years, Defendants have manufactured and/or sold  
17 fabric and/or garments upon which were unauthorized reproductions of the  
18 Copyrighted Designs (the “**Infringing Goods**”).

19 56. Defendants have imported, caused to be imported, licensed,  
20 manufactured, sold, advertised for sale and/or otherwise offered for sale the  
21 Infringing Goods to customers, including retailers and consumers, throughout the  
22 United States, including within this judicial district.

23 57. By Defendants’ knowingly unauthorized licensing, importing,  
24 manufacturing, advertising, offering for sale and/or sale of the Infringing Goods,  
25 Defendants have infringed on Plaintiff’s Copyrights in the Designs.

26 58. Plaintiff is without adequate remedy at law to prevent the wrongful acts  
27 of Defendants herein set forth, and said acts of Defendants have resulted and will  
28 result in irreparable damage to Plaintiff unless Defendants’ acts of infringement are

1 enjoined by this Court.

2       59. Defendants' intentional infringing activities have continued and will  
3 continue to the detriment of Plaintiff, and loss and injury to Plaintiff's business in an  
4 amount not presently ascertainable, and threaten to increase such loss and injury  
5 unless such activities are enjoined by this Court and Defendants are required to  
6 recall and destroy all Infringing Goods.

7       60. By reason of the acts of Defendants alleged herein, Plaintiff has  
8 suffered actual damages in an amount subject to proof at trial.

9       61. Due to Defendants' acts of copyright infringement, Defendants, and  
10 each of them, have obtained profits they would not otherwise have realized but for  
11 their infringement of the Designs. Pursuant to the Copyright Act, Plaintiff is  
12 entitled to disgorgement of Defendants' profits attributable to Defendants'  
13 infringement of the Designs in an amount subject to proof at trial. Plaintiff is further  
14 entitled to recover its lost profits by virtue of Defendants' acts of infringement,  
15 which are subject to proof at trial.

16       62. Plaintiff is informed and believes, and based thereon alleges, that  
17 Defendants' acts of infringement as alleged herein were willful and deliberate.  
18 Accordingly, in the event that Plaintiff elects statutory damages, Defendants, and  
19 each of them, are subject to liability for statutory damages under Section 504(c)(2)  
20 of the Copyright Act in the sum of up to one hundred fifty thousand dollars  
21 (\$150,000.00) for each violation, payable jointly and severally by each Defendant,  
22 in the full amount. In the event that any of the Doe Defendants are additional  
23 retailers, Plaintiff is entitled to, and will seek, a separate award of maximum  
24 statutory damages as to each such additional Defendant's infringement (for which  
25 defendant Topson will be jointly and severally liable).

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**SECOND CLAIM FOR RELIEF**

**(Contributory Copyright Infringement – Against All Defendants)**

63. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 62 hereinabove, and incorporates them by reference as if fully set forth herein.

64. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, knowingly induced, participated in, aided in, and profited from the illegal reproduction of Plaintiff's Designs and/or subsequent importing, advertising and/or sale of the Infringing Goods, as alleged above.

65. By Defendants' unauthorized duplication of the Designs, and by their offering and accepting for sale and sale of the Infringing Goods, Defendants, and each of them, have infringed Plaintiff's Copyrights in the Designs.

66. Plaintiff is informed and believes, and based thereon alleges, that Defendants' acts of infringement as alleged herein were willful and deliberate.

67. By reason of Defendants' acts of contributory copyright infringement as alleged herein, Plaintiff is without adequate remedy at law to prevent the wrongful acts of Defendants herein set forth, and said acts of Defendants have resulted and will result in irreparable damage to Plaintiff unless Defendants' acts of infringement are enjoined by this Court.

68. Defendants' infringing activities have continued and will continue to the detriment of Plaintiff and loss and injury to Plaintiff's business in an amount not presently ascertainable, and threaten to increase such loss and injury unless such activities are enjoined by this Court and Defendants are required to recall and destroy all Infringing Goods and designs.

69. By reason of the acts of Defendants alleged herein, Plaintiff has suffered actual damages in an amount subject to proof at trial.

70. Due to Defendants' acts of contributory copyright infringement, Defendants, and each of them, have obtained profits they would not otherwise have

1 realized but for their infringement of the Designs. As such, Plaintiff is entitled to  
2 disgorgement of Defendants' profits attributable to Defendants' infringement of the  
3 Designs in an amount subject to proof at trial. Plaintiff is further entitled to recover  
4 its lost profits by virtue of Defendants' acts of infringement, which are subject to  
5 proof at trial.

6 71. Plaintiff is informed and believes and based thereon alleges that  
7 Defendants' acts of infringement as alleged herein were willful and deliberate.  
8 Accordingly, in the event that Plaintiff elects statutory damages, Defendants, and  
9 each of them, are subject to liability for statutory damages under Section 504(c)(2)  
10 of the Copyright Act in the sum of up to one hundred fifty thousand dollars  
11 (\$150,000) for each violation, payable separately, in the full amount, by each  
12 infringing defendant.

### 13 PRAYER

14 WHEREFORE, Plaintiff prays for relief against Defendants, and each of  
15 them, as follows:

#### 16 As to First Cause of Action (Copyright Infringement)

17 1. For a preliminary injunction and a permanent injunction, restraining  
18 Defendants and their agents, servants, employees, and all persons acting under, in  
19 concert with, or for them, from using Plaintiff's Designs for any purpose, including  
20 but not limited to, use of the Designs in attempting to sell and/or selling garments.

21 2. For an order requiring the recall and destruction of all garments  
22 infringing upon the Designs.

23 3. Actual damages, plus Defendants' profits attributable to Defendants'  
24 infringement of the Design, in an amount subject to proof at trial; or, if elected,  
25 maximum statutory damages as available under the Copyright Act.

26 4. For attorneys' fees where allowed by law.

27 5. For such further and other relief as the Court deems just and proper.  
28

1 As to Second Cause of Action (Contributory Copyright Infringement)

2 6. For a preliminary injunction and a permanent injunction, restraining  
3 Defendants and their agents, servants, employees, and all persons acting under, in  
4 concert with, or for them, from using Plaintiff's Designs for any purpose, including  
5 but not limited to, use of the Designs in attempting to sell and/or selling garments.

6 7. For an order requiring the recall and destruction of all garments  
7 infringing upon the Designs.

8 8. Actual damages, plus Defendants' profits attributable to Defendants'  
9 contributory infringement of the Design, in an amount subject to proof at trial; or, if  
10 elected, maximum statutory damages as available under the Copyright Act.

11 9. For attorneys' fees where allowed by law.

12 10. For such further and other relief as the Court deems just and proper.

13  
14 Dated: May 25, 2018

RESCH POLSTER & BERGER LLP

15  
16 Bv: /s/ Michael C. Baum  
17 MICHAEL C. BAUM  
18 Attorneys for Plaintiff  
19 Fabric Selection, Inc.  
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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury in this action.

Dated: May 25, 2018

RESCH POLSTER & BERGER LLP

Bv: /s/ Michael C. Baum  
MICHAEL C. BAUM  
Attorneys for Plaintiff  
Fabric Selection, Inc.

resch polster & berger llp